IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/02/2004

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.7997 of 2002

T.Vellaiyan .. Petitioner

-Vs-

1. The Registrar
State Human Rights Commission
Tamilnadu,
No.35, Thiru.Vi.Ka.Salai
Royapettah, Chennai-14.

2. T.Arasan

3. The Assistant Executive Engineer
Tamilnadu Electricity Board
Ulundurpet, Villupuram District.

4. The Sub-Inspector of Police
Thirunavalur Police Station
Villupuram District. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorari as stated therein.

For Petitioner : Mr.T.Sellapandian

For Respondents : No appearance
for 1st respondent
Mr.A.S.Narasimhan
for 2nd respondent
Mr.G.vasudevan
for 3rd respondent
Mr.K.Mahendran
Spl. Government Pleader
for 4th respondent

:ORDER

Admittedly, the petitioner and the second respondent are brothers and they divided their property under the partition deed dated 22.7.1998.

2.1. The second respondent, claiming a right in the electric service connection enjoyed by the petitioner herein under S.C.No.8 in the bore well situated in Survey No.21/4, Arinatham Village, Ulundurpet Taluk, within the jurisdiction of the third re dent herein, has preferred a petition before the first respondent/State Human Rights Commission and the same was registered as SHRC Case No.4974/2001/KSJ.

2.2. Pending the above petition, the second respondent also sought for an interim direction for transfer of the electricity service connection, namely S.C.No.8 from the name of the writ petitioner to the name of the second respondent herein.

2.3. The first respondent/Commission, by order dated 4.2.2002, as modified by order dated 20.2.2002, granted interim direction as sought for by the second respondent. Hence, the petitioner has preferred this writ petition for issue of a writ of Cer ari to call for the records pertaining to the interim order passed by the first respondent/Commission in SHRC Case No.4974/2001/KSJ, dated 4.2.2002, as modified on 20.2.2002 and to quash the same, questioning the very jurisdiction of the first respondent /State Human Rights Commission and challenging the right of the second respondent herein.

3. Mr.A.S.Narasimhan, learned counsel for the second respondent, seriously contends that the interim order passed by the first respondent/Commission is well within the jurisdiction of the State Human Rights Commission, as the grievance of the secon spondent falls within the right sought to be protected by the first respondent/Commission under Section 2(d) of the Protection of Human Rights Act, 1993 (for brevity "the Act").

4. Under the above facts and circumstances of the case, I am of the considered opinion that, without deciding the jurisdiction of the first respondent/Commission to entertain the petition preferred by the second respondent and pass the interim order ferred to above, it may not be proper for this Court to express any opinion with respect to the rights between the parties based on the partition deed dated 22.7.1998 and the merits thereon.

5. In this regard, it is apposite to refer the definition of "Human Rights" as defined under Section 2(d) of the Act:
Section: 2 - Definitions:
(a) to (c) ...
(d) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India;
(emphasis supplied)

6. Even though it was contended that right to life, liberty, equality and dignity includes the right to property, with respect to which a petition was made by the second respondent, I am unable to extend the definition of "human rights" to that exte o include the right to property also within the definition, particularly when the legislature as explicitly omitted the right to property within the definition of human rights.

7. In the instant case, it is not in dispute that the rights relating to the property got divided under the terms of the partition deed dated 22.7.1998 between the petitioner and the second respondent. In which event, it cannot be said that the rig o property, which is being complained by the second respondent herein before the first respondent, is inclusive of the right to life, liberty, equality and dignity, alleged to have been interfered by the petitioner.

8. The interference of the right to property of the second respondent, as complained before the first respondent, is, in my considered opinion, independent inasmuch as the same is based on the partition deed dated 22.7.1998, to decide which, a compe civil court shall only have jurisdiction. In that view of the matter, it is impermissible for this Court while exercising the power of judicial review under Article 226 of the Constitution of India, as well as the first respondent/Commission to decid e the dimensions of the right to property of the second respondent and the petitioner.

9. However, at this stage, Mr.A.S.Narasimhan, learned counsel for the second respondent fairly comes forward seeking permission to withdraw the complaint filed before the first respondent, seeking liberty to work out his right in a manner known to l ncluding to approach the third respondent/Board seeking fresh electricity service connection in his own patta land based on the partition deed dated 22.7.1998.

10. Under such circumstances, I am inclined to allow this writ petition with the following direction:
(i) the second respondent is permitted to withdraw the petition filed before the first respondent/ Commission, and consequently, the interim order dated 4.2.2002, as modified by order dated 20.2.2002 passed in SHRC Case No.4974/2001/ KSJ, stands quashed ;
(ii) the third respondent/Board shall pass appropriate orders transferring the service connection bearing No.8 in the bore well situated in Survey No.21/4, Arinatham Village, Ulundurpet Taluk in favour of the petitioner;
(iii) the second respondent is at liberty to workout his right in a manner known to law; and

(iv) the second respondent is also at liberty to approach the third respondent/Board for a separate electricity service connection in the land allotted to him as per the partition deed dated 22.7.1998 and in which event, the third respondent/Board shall consider the same and pass appropriate orders.

Index : Yes
Internet : Yes

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To:
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